



# House of Representatives

General Assembly

**File No. 580**

February Session, 2004

Substitute House Bill No. 5203

*House of Representatives, April 14, 2004*

The Committee on Public Health reported through REP. FELTMAN of the 6th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT CONCERNING MANAGED CARE CONTRACTS AND PHYSICIANS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 5 of public act 03-169 is repealed  
2 and the following is substituted in lieu thereof (*Effective October 1,*  
3 *2004*):

4 (a) If the Insurance Commissioner determines that a preferred  
5 provider network or managed care organization, or both, has not  
6 complied with any applicable provision of section 38a-479aa, sections  
7 38a-226 to 38a-226d, inclusive, or sections 38a-815 to 38a-819, inclusive,  
8 of the general statutes, sections 2 to 7, inclusive, of [this act] public act  
9 03-169, as amended by this act, or any of the contractual provisions  
10 required pursuant to subsection (d) of section 2 of public act 03-169,  
11 the commissioner may (1) order the preferred provider network or  
12 managed care organization, or both if both have not complied, to cease  
13 and desist all operations in violation of said sections; (2) terminate or

14 suspend the preferred provider network's license; (3) institute a  
15 corrective action against the preferred provider network or managed  
16 care organization, or both if both have not complied; (4) order the  
17 payment of a civil penalty by the preferred provider network or  
18 managed care organization, or both if both have not complied, of not  
19 more than one thousand dollars for each and every act or violation; (5)  
20 order the payment of such reasonable expenses as may be necessary to  
21 compensate the commissioner in conjunction with any proceedings  
22 held to investigate or enforce violations of section 38a-479aa, as  
23 amended, sections 38a-226 to 38a-226d, inclusive, sections 38a-815 to  
24 38a-819, inclusive, or sections 2 to 7, inclusive, of [this act] public act  
25 03-169, as amended by this act; and (6) use any of the commissioner's  
26 other enforcement powers to obtain compliance with section 38a-  
27 479aa, as amended, sections 38a-226 to 38a-226d, inclusive, sections  
28 38a-815 to 38a-819, inclusive, or sections 2 to 7, inclusive, of [this act]  
29 public act 03-169, as amended by this act. The commissioner may hold  
30 a hearing concerning any matter governed by section 38a-479aa, as  
31 amended, sections 38a-226 to 38a-226d, inclusive, sections 38a-815 to  
32 38a-819, inclusive, or sections 2 to 7, inclusive, of [this act] public act  
33 03-169, as amended by this act, in accordance with section 38a-16.  
34 Subject to the same confidentiality and liability protections set forth in  
35 subsections (c) and (k) of section 38a-14, the commissioner may engage  
36 the services of attorneys, appraisers, independent actuaries,  
37 independent certified public accountants or other professionals and  
38 specialists to assist the commissioner in conducting an investigation  
39 under this section, the cost of which shall be borne by the managed  
40 care organization or preferred provider network, or both, that is the  
41 subject of the investigation.

42 Sec. 2. Section 6 of public act 03-169 is repealed and the following is  
43 substituted in lieu thereof (*Effective October 1, 2004*):

44 No health insurer, health care center, utilization review company, as  
45 defined in section 38a-226, or preferred provider network, as defined  
46 in section 38a-479aa, as amended, shall take or threaten to take any  
47 adverse personnel or coverage-related action against any enrollee,

48 provider or employee in retaliation for such enrollee, provider or  
49 employee (1) filing a complaint with the Insurance Commissioner, the  
50 Governor, any law enforcement agency or the Office of Managed Care  
51 Ombudsman, or (2) disclosing information to the Insurance  
52 Commissioner concerning any violation of section 38a-479aa, as  
53 amended, sections 38a-226 to 38a-226d, inclusive, sections 38a-815 to  
54 38a-819, inclusive, or sections 2 to 7, inclusive, of [this act] public act  
55 03-169, as amended by this act, unless such disclosure violates the  
56 provisions of chapter 705 or the privacy provisions of the federal  
57 Health Insurance Portability and Accountability Act of 1996 (P.L. 104-  
58 191) (HIPAA), as amended from time to time, or regulations adopted  
59 thereunder. Any enrollee, provider or employee who is aggrieved by a  
60 violation of this section may bring a civil action in the Superior Court  
61 to recover damages and attorneys' fees and costs.

62 Sec. 3. Section 38a-478a of the general statutes, as amended by  
63 section 11 of public act 03-169, is repealed and the following is  
64 substituted in lieu thereof (*Effective October 1, 2004*):

65 On March 1, 1999, and annually thereafter, the Insurance  
66 Commissioner shall submit a report, to the Governor and to the joint  
67 standing committees of the General Assembly having cognizance of  
68 matters relating to public health and relating to insurance, concerning  
69 the commissioner's responsibilities under the provisions of sections  
70 38a-226 to 38a-226d, inclusive, 38a-478 to 38a-478u, inclusive, as  
71 amended, 38a-479aa, as amended, and 38a-993. The report shall  
72 include: (1) A summary of the quality assurance plans submitted by  
73 managed care organizations pursuant to section 38a-478c, as amended,  
74 along with suggested changes to improve such plans; (2) suggested  
75 modifications to the consumer report card developed under the  
76 provisions of section 38a-478l; (3) a summary of the commissioner's  
77 procedures and activities in conducting market conduct examinations  
78 of utilization review companies and preferred provider networks,  
79 including, but not limited to: (A) The number of desk and field audits  
80 completed during the previous calendar year; (B) a summary of  
81 findings of the desk and field audits, including any recommendations

82 made for improvements or modifications; (C) the number and a  
83 description of complaints concerning managed care companies, and  
84 any preferred provider network that provides services to enrollees on  
85 behalf of the managed care organization, listed by managed care  
86 company and preferred provider network, including a summary and  
87 analysis of any trends or similarities found in the managed care  
88 complaints filed by enrollees, and the number of each type of  
89 disposition of such complaints, including findings of no violation or  
90 voluntary compliance, the issuance of cease and desist orders, license  
91 suspensions or terminations, orders of corrective action, orders of civil  
92 penalty and orders of payment of the commissioner's expenses; (4) a  
93 summary of the complaints received by the Insurance Department's  
94 Consumer Affairs Division and the commissioner under section 38a-  
95 478n, as amended, including a summary and analysis of any trends or  
96 similarities found in the complaints received; (5) a summary of any  
97 violations the commissioner has found against any managed care  
98 organization or any preferred provider network that provides services  
99 to enrollees on behalf of the managed care organization; and (6) a  
100 summary of the issues discussed related to health care or managed  
101 care organizations at the Insurance Department's quarterly forums  
102 throughout the state.

This act shall take effect as follows:	
Section 1	<i>October 1, 2004</i>
Sec. 2	<i>October 1, 2004</i>
Sec. 3	<i>October 1, 2004</i>

**PH**            *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Insurance Dept.; Office of Managed Care Ombudsman	GF - None	None	None

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill makes various changes to laws concerning managed care contracts and physicians; none of which have a fiscal impact.

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**OLR Bill Analysis**

sHB 5203

***AN ACT CONCERNING MANAGED CARE CONTRACTS AND PHYSICIANS.*****SUMMARY:**

This bill expands the list of actions for which the insurance commissioner may issue sanctions against a managed care organization (MCO) or preferred provider network (PPN) by specifically including violations of mandatory contractual provisions between the MCO and PPN. It authorizes the same sanctions as the law already permits for other violations.

The bill prohibits a health insurer, HMO, utilization review company, or PPN from retaliating against an enrollee, provider, or employee who files a complaint with the governor or a law enforcement agency. The law already prohibits retaliation for complaints filed with the insurance commissioner or the managed care ombudsman. The bill extends the ability of an aggrieved enrollee, provider, or employee to bring a civil action in Superior Court to recover damages and attorney fees and costs to those retaliated against for complaining to the governor or a law enforcement agency.

The bill adds to the information that the commissioner must report annually to the governor and Insurance and Real Estate and Public Health committees about complaints against MCOs and PPNs. The bill requires her report to (1) include the number, as well as the description, of the complaints; (2) list the complaints by MCO and PPN; and (3) include the number of each complaint disposition type. Complaint disposition types include findings of no violation, voluntary compliance, cease and desist order, license suspensions or termination, corrective action order, civil penalty, and expense payment order.

EFFECTIVE DATE: October 1, 2004

**ENFORCEMENT AUTHORITY**

The bill specifies that the commissioner can take the same enforcement

actions for violations of the mandatory contractual provisions as for failing to comply with the PPN statute, utilization review requirements, the unfair insurance practices act, and certain provisions regarding PPNs. The permissible enforcement actions are:

1. issue a cease and desist order against the MCO, PPN, or both;
2. terminate or suspend the PPN's license;
3. institute corrective action against the MCO, PPN, or both;
4. order the MCO, PPN, or both to pay a civil penalty of up to \$1,000 for each violation;
5. order payment of reasonable expenses to compensate the commissioner for the cost of any investigation or enforcement action; and
6. use any existing enforcement authority to obtain compliance.

## **BACKGROUND**

### ***Legislative History***

The House referred the original version of this bill (File 53) to the Public Health Committee on March 23. On March 31, the committee reported this substitute version of the bill, which eliminates the original bill's provisions on recoding and denial of health insurance claims and provider appeals.

## **COMMITTEE ACTION**

Insurance and Real Estate Committee

Joint Favorable Substitute

Yea 11      Nay 7

Public Health Committee

Joint Favorable Substitute

Yea 22      Nay 0